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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

In re E.V., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

E.V.,

Defendant and Appellant.

G040941

(Super. Ct. No. DL031907)

O P I N I O N

Appeal from a judgment of the Superior Court of Orange County, Julian W. Bailey, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

Cindy Brines, under appointment by the Court of Appeal, for Defendant and Appellant.

Edmund G. Brown, Jr., Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Gary W. Schons, Assistant Attorney General, Peter Quon, Jr., Chandra E. Appell, and Ronald Jakob, Deputy Attorneys General, for Plaintiff and Respondent.

A petition alleged that 17-year-old E.V. (the minor) committed auto theft, evaded a police officer, and left the scene of an accident. The juvenile court dismissed the latter two charges, but found true the allegation E.V. drove a car without the consent of its owner. The minor was granted supervised probation and ordered to serve 42 days in custody.

On appeal, the minor challenges the sufficiency of the evidence to prove his intent to “either to permanently or temporarily deprive the owner” of “title to or possession of the vehicle.” (Veh. Code, § 10851, subd. (a).) In particular, the minor argues that he did not know, nor could he have reasonably known, that the car he admittedly drove was a stolen car. We find the minor’s contention to be meritless, and therefore affirm the judgment.

I

FACTS

Around 4:00 p.m., on June 19, 2008, Young Il Koh reported that his silver 2007 Mazda Three had been stolen from in front of his own home. Koh said that he parked the car in front of his home and then entered his house in order to assist his wife in locking the doors before they both left. Koh admittedly left the keys in the ignition and the car running because he did not intend to stay long and it was a hot day. However, as Koh entered the house, he noticed that a young man had gotten into his idling car. Shortly thereafter, Koh saw two other young men get into the car just before it was driven out of the area. Koh stated that he did not know any of the young men, and that he had not given anyone permission to drive his car.

Two days later, Orange County Deputy Sherriff William West saw E.V. driving Koh’s car. West testified that he first observed the car at around 8:00 p.m. at the corner of Santa Rosalia Street and Santa Gertrudes Avenue in Stanton, California. At the time, there were two young men in the car. The minor was identified as the driver. West knew the car had been reported stolen and started to follow in anticipation of making a

traffic stop. However, as West pulled in behind the car, the minor accelerated away from him.

During the resulting pursuit, West noticed that the minor and his passenger were exchanging “furtive” hand gestures. When West relayed the license plate number to the sheriff’s dispatch officer, and received oral confirmation of the car’s stolen status, he noticed the car slowed down just before the passenger opened his door and then stuck a foot out of the open door. West turned on his overhead lights and siren, which prompted the passenger to jump from the moving car. The passenger, who was never identified and made good his escape, was dragged a short distance and then tossed into a parked car. The passenger door of Koh’s car also collided with the same parked car. The stolen car stopped within seconds, but it was unclear whether the minor stopped the car on his own accord or because traffic congestion blocked any further movement.

West contacted the minor and read him his *Miranda*¹ rights. Initially, the minor told West that he did not know his passenger and that this unknown passenger had simply picked him up and asked him to drive. Later, the minor admitted that he and the passenger had been childhood friends. Although the minor gave West a first name, Frank, he claimed to not know Frank’s last name. West testified the minor “was very evasive in his answering of questions” and answered only certain questions that were asked. West also testified that he had not seen any other damage to the car other than what occurred as a result of the crash.

II

DISCUSSION

Sufficiency of the Evidence

The minor challenges the sufficiency of the evidence. Pointing to the absence of any visible damage to the car’s interior and the circumstance of being offered

¹ *Miranda v. Arizona* (1966) 384 U.S. 436.

a ride and then asked to drive by a childhood friend as facts that establish beyond a reasonable doubt that he did not have the requisite “intent” to deprive the owner of possession or title to his car. We disagree.

“In reviewing the sufficiency of the evidence, we must . . . uphold the judgment if, after viewing all the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the elements of the crime beyond a reasonable doubt. [Citations.]” (*People v. Miranda* (1987) 44 Cal.3d 57, 86; *People v. Johnson* (1980) 26 Cal.3d 557, 578). In this case, substantial evidence supports finding the minor had a specific intent to deprive Koh of the possession of his car.

Vehicle Code section 10851, subdivision (a), provides: “Any person who drives or takes a vehicle not his or her own, without the consent of the owner thereof, and with intent either to permanently or temporarily deprive the owner thereof of his or her title to or possession of the vehicle, whether with or without intent to steal the vehicle, or any person who is a party or an accessory to or an accomplice in the driving or unauthorized taking or stealing, is guilty of a public offense” The “specific intent to deprive the owner of possession of his car may be inferred from all the facts and circumstances of the particular case.” (*In re Robert V.* (1982) 132 Cal.App.3d 815, 821.) “Once the unlawful taking of the vehicle has been established, possession of the recently taken vehicle by the defendant with slight corroboration through statements or conduct tending to show guilt is sufficient to sustain a conviction of Vehicle Code section 10851.” (*Id.* at pp. 821-822; see also *People v. Hopkins* (1963) 214 Cal.App.2d 487, 491-492.)

The juvenile court relied on evidence of the minor’s erratic driving behavior, “furtive” hand movements, the passenger’s brazen exit and flight from the moving vehicle, and the minor’s limited cooperation with the arresting officer as sufficient evidence of guilty intent. However, with the minor’s possession of an admittedly stolen car, a conviction under Vehicle Code section 10851, subdivision (a) in

this case required the court to find only slight corroboration of the minor's intent as demonstrated in his behavior or through his statements. (*People v. Clifton* (1985) 171 Cal.App.3d 195, 199-200.) Although the minor contends there was no objective evidence inside the car which could reasonably alert him to the car's stolen status, and that his behavior behind the wheel (changing speeds, colliding with a parked vehicle) and with his passenger (furtive hand movements, the passenger's flight) can be explained as normal driving behavior, or at most indicative *only* of the *passenger's* guilt, as a reviewing court, we are required to draw all inferences in favor of the judgment. Furthermore, "knowledge that the vehicle was stolen is not an element of the offense. Such knowledge is merely one of various alternative factors evidencing an intent to deprive the owner of title and possession. [Citation.]" (*People v. Green* (1995) 34 Cal.App.4th 165, 180 (*Green*).)

In *Green*, the defendant was found in possession of a stolen car that he claimed to not know was stolen. The appellate court found compelling the fact that the defendant had been discovered driving the car within four days of its theft while in possession of tools frequently used to steal cars, and that he immediately parked the car and fled after passing a police patrol car. (*People v. Green, supra*, 34 Cal.App.4th at p. 181.) In addition, the defendant gave investigating officers contradictory statements about a second person he claimed had actual control of the car. (*Id.* at pp. 181-182.)

Similarly, in *People v. Reynolds* (1957) 149 Cal.App.2d 290, the defendant was involved in the theft and resale of an adding machine. The appellate court found that, amongst other indicia, the defendant's possession of the stolen machine within six days of the theft and his "false and evasive answers to [the investigating officer] regarding the purchase of the machine" were sufficient to establish the defendant's intent to permanently deprive the owner of his property. (*Id.* at p. 295.)

In this case, the minor was found driving Koh's stolen car a mere two days after its reported theft. The trial court considered this circumstance in conjunction with

the minor's erratic driving behavior after he saw West's patrol car, the fact that he immediately made "furtive" hand movements and communicated with his passenger, the passenger's desperate flight from a moving car, and the ensuing collision between the passenger's open door and the parked vehicle as facts indicative of the requisite intent. Moreover, West testified the minor was "evasive" when interviewed about the incident, and testified that he received contradictory answers to some basic questions. As has been noted elsewhere, "'If the circumstances reasonably justify the [conviction], the opinion of the reviewing court that those circumstances might also reasonably be reconciled with the innocence of the defendant will not warrant interference with the determination'" [Citations.]" (*People v. Roberts* (1975) 51 Cal.App.3d 125, 138; see also *People v. Superior Court (Tunch)* (1978) 80 Cal.App.3d 665, 670.) Under the circumstances presented here, we find substantial evidence supports the juvenile court's judgment.

III

DISPOSITION

The judgment of the juvenile court is affirmed.

SILLS, P. J.

WE CONCUR:

MOORE, J.

FYBEL, J.